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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,127	08/06/2003	Glen D. Traubenkraut	GP-303003	2083

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EXAMINER

LE, MARK T

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 02/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/635,127

Applicant(s)

TRAUBENKRAUT ET AL.

Examiner

Mark T. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 13 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This communication is responsive to the amendments filed on January 18, 2005. Applicant's amendments and remarks have been carefully considered.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7 and 11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Mahrle (US 2,821,146).

Mahrle discloses a material handling system having all the features as recited in the instant claims, including I-beam 12, rail P, and element 20 readable as a hanger that connects beam 12 to rail P such that certain portions of the beam and of the rail have the same vertical height.

Regarding the instant claimed portion of the hanger contacting the lower surface of the upper flange of the beam, as recited in instant claims 3, 6 and 12, consider bracket/fastening element 22 of the hanger of Mahrle, which contacts the lower surface of the upper flange of beam 12, and which is located on the side of the beam that is opposite to the side of the beam facing rail P, as shown in Figure 3 of Mahrle.

Regarding the instant claimed trolley recited in instant claim 7, consider trolley 62 of Mahrle.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zaguroli (US 5,598,785) in view of Sherburne (US 3,140,848).

Zaguroli discloses trolley track rail 12 provided with hanger 10 with a hanger bar 22 or 70 for connecting to a support for the track rail; however, Zaguroli does not show such support for the track rail.

Sherburne, Figure 1, shows a support in the form of an existing overhead I-beam, e.g. a roof beam, and a hanger with fastening means for mounting the hanger to the existing overhead I-beam. Said hanger includes hanger bar 20 for suspending a structure from the beam.

In view of Sherburne, it would have been obvious to one skilled in the art to provide fastening means to hanger bar 22 or 70 of Zaguroli for allowing the hanger to

be mounted to an available overhead I -beam, such as an existing roof I-beam of a building, in a manner similar to that taught by Sherburne, so as to achieve expected advantages thereof, such as quick and easy connections and disconnections.

Regarding the method steps recited in instant claims 8-10, note that the process of forming the structure of Zagurolli, as modified, inherently requires the method steps recited in the instant method claims.

6. Responses to Applicant's Arguments:

Applicant's arguments to the ground of rejection of claims 1-7 and 11-12 are deemed moot in view of the new ground of rejection set forth above.

Regarding Applicant's argument directed to the expression "connecting a rail to the horizontally oriented beam such that at least a portion of the rail is positioned laterally with respect to the beam", note that upon combining Zagurolli and Sherburne, as set forth above, hanger bar 22 or 70 of Zagurolli would take the position of bar 20 of Sherburne; therefore, rail 12 of Zagurolli would be positioned laterally with respect to I - beam 4 of Sherburne, as broadly recited in the instant claim.

Regarding Applicant's argument directed to the expression "method of retrofitting a material handling system having a horizontally-oriented beam defining an exposed track", note that the roof I -beam of Sherburne is readable as a material handling system or at least of being capable of being used as such because said beam has horizontally extending flanges that are inherently capable being used as exposed tracks for supporting trolleys. In the instant case, the I -beam of Sherburne is provided with a hanger that is used to hang (readable as handling) a material, which may be conduits or

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pipes; therefore, I -beam 4 of Sherburne, including the hanger attached thereto, is readable as a material handling system. Applicant should further note that upon the structure of Zargurolli is hanged from an existing I-beam, such as that of Sherburne, as set forth in the above ground of rejection, said existing I -beam is readable as having been retrofitted as broadly recited in the instant claim.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Le whose telephone number is 703-308-3663. The examiner can normally be reached on Mon-Fri (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark T. Le  
Primary Examiner  
Art Unit 3617

mle  
2/3/05